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Re Applic of	Jay W. Strane
Docket No.	FIS920040020US1
Serial No.	10/708,408
Filing Date	3/1/04
Attorney	H. Daniel Schnurmann

Attached: Response to Restriction Requirement

PLEASE DELIVER TO: Kyoung Lee
EXAMINER: ART UNIT: 2812
CONFIRMATION NO.: 2407
PHONE NO:
FAX NO: 571-273-8300

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 10/11/05

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE	
In re application of: Jay W. Strane	Date: October 11, 2005
Serial Number: 10/708,408	Examiner: Kyoung Lee
Filed: 3/01/2004	Group Art Unit: 2812
Title: Air Gap Interconnect Structure and Method of Manufacture.	IBM Corporation D/18G, B/300, Zip 482 2070 Route 52 Hopewell Junction, NY 12533-6531

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner of Patents and Trademarks
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action dated September 29, 2005.

The Examiner, in the aforementioned Office Action, has required restriction under 35 U.S.C. § 121, stating that the claims belong to:

GROUP I, Claims 1-16, drawn to a method of making a semiconductor;

GROUP II, Claims 10-20, drawn to a semiconductor device.

10/708,408

1

Applicant traverses the aforementioned Restriction Requirement for the following reasons:


Applicant submits that the claims as filed relate to a process of fabricating an interconnect structure and to the interconnect structure itself. The claims are only related to semiconductors indirectly and are not deemed to address the essence of the invention as claimed. Accordingly, Applicant believes that the Classes stated in the Office Action do not apply to the claims as filed.

Applicant believes that once the appropriate classification is selected, it will become abundantly obvious that the proper classification will show that the method of fabricating the interconnect structure coincides with the class corresponding to the actual structure.

In view of the foregoing, Applicant deems that both Groups I and II as recited in the Office Action belong to the same class, and that the correct class does not fit the criteria for restriction. Accordingly, it is believed that the restriction requirement should be withdrawn.

Notwithstanding the foregoing arguments, Applicants elect to prosecute the invention of GROUP I, consisting of Claims 1-16 drawn to the method, and withdraw from consideration the claims forming GROUP II, as being drawn to non-elected invention, without prejudice to the Applicants' right to file a Divisional or Continuation or Continuation-in-Part Patent Application for the withdrawn claims.

Respectfully submitted,
JAY W. STRANE

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